

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Chairman;
Mark Acton, Vice Chairman;
Tony Hammond; and
Nanci E. Langley

Competitive Product Prices
GEPS 3 (MC2010-28)
Negotiated Service Agreements

Docket No. CP2017-8

ORDER APPROVING IN PART MODIFICATIONS TWO AND THREE TO
GEPS 3 NEGOTIATED SERVICE AGREEMENT AND DENYING AS MOOT MOTIONS
FOR TEMPORARY RELIEF

(Issued November 28, 2017)

I. INTRODUCTION

The Postal Service seeks to modify a Global Expedited Package Services 3 negotiated service agreement.¹ For the reasons discussed below, the Commission approves in part the Modifications.

¹ Motion of the United States Postal Service for Temporary Relief and Notice of the United States Postal Service of Filing Modification Two to Global Expedited Package Services 3 Negotiated Service Agreement, November 22, 2017 (November 22, 2017 Notice); Motion of the United States Postal Service for Temporary Relief Concerning Global Expedited Package Services 3 Negotiated Service Agreement, November 27, 2017 (November 27, 2017 Motion); Notice of the United States Postal Service of Filing Modification Three to a Global Expedited Package Services 3 Negotiated Service Agreement (November 28, 2017 Notice)(collectively, Filings). The modifications are attachments to the Filings (Modification Two and Modification Three) (collectively, Modifications).

In Order No. 3580, the Commission approved the Global Expedited Package Services 3 negotiated service agreement (Existing Agreement).² On November 22, 2017, the Postal Service filed notice that it has agreed to Modification Two to the Existing Agreement. On November 28, 2017, the Postal Service filed notice that it has agreed to Modification Three to the Existing Agreement.

II. COMMISSION ANALYSIS

The Commission has reviewed the Notices and the accompanying materials filed under seal.

Cost considerations. The Commission reviews competitive product prices to ensure that each product covers its attributable costs, does not cause market dominant products to subsidize competitive products, and contributes to the Postal Service's institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3015.5 and 3015.7. As long as the revenue generated by the product exceeds its attributable costs, the product is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, if a product covers its attributable costs, it is likely to comply with 39 U.S.C. § 3633(a).

The Existing Agreement is set to expire on November 30, 2017.³ Modification Two revises the expiration date of the contract to be contingent upon the date the Commission completes its review of the successor agreement filed in Docket No. CP2018-57, should that review not be completed by November 30, 2017. See November 22, 2017 Notice at 1. Modification Three revises the expiration date of the contract to be contingent upon the date the Commission completes its review of the

² Order Approving Additional Global Expedited Package Services 3 Negotiated Service Agreement, October 24, 2016 (Order No. 3580). The contract was later modified. See Order Approving Modification One to GEPS 3 Negotiated Service Agreement and Denying as Moot Motion for Temporary Relief, October 23, 2017 (Order No. 4172).

³ Order No. 3580 at 7 (setting original expiration date as October 31, 2017); Order No. 4172 at 2 (revising expiration date to November 30, 2017).

successor agreement filed in Docket No. CP2018-57, should that review not be completed by November 29, 2017. See November 28, 2017 Notice at 1.

The Modifications do not materially affect the underlying financial analysis of the Existing Agreement. Thus, the Commission finds that the Existing Agreement, as modified, comports with the provisions applicable to rates for competitive products in 39 U.S.C. § 3633(a) and 39 C.F.R. § 3015.7. The terms of the Modifications adequately address a scenario in which the Commission is able to promptly complete its review of the successor agreement. However, as unexpected delay—or withdrawal—might ensue, the Commission finds it preferable to impose an upper limit on the length of time the Existing Agreement, as modified, may continue.⁴ The Existing Agreement, as modified, will be listed on the Mail Classification Schedule until the expiration date of the Existing Agreement, as modified, or until December 31, 2017, whichever occurs earlier.

Other considerations. The Existing Agreement, as modified, is set to expire upon the later of November 29, 2017, or one business day after the Commission completes its review of the successor agreement filed in Docket No. CP2018-57. See November 28, 2017 Notice at 1. However, as discussed above, the Existing Agreement, as modified, will terminate no later than December 31, 2017. The Postal Service shall promptly notify the Commission of the termination date of the Existing Agreement, as modified.

In conclusion, the Commission approves in part the Existing Agreement, as modified. Accordingly, the Motions for Temporary Relief are denied as moot.

⁴ The Commission similarly addressed the problem of contingent expiration dates in the context of motions for temporary relief submitted without signed modifications. See Docket No. CP2012-47, Order No. 4033, Order Granting in Part Motion for Temporary Relief, August 10, 2017; Docket No. CP2015-85, Order No. 3393, Order Granting in Part Motion for Temporary Relief, June 28, 2016.

III. ORDERING PARAGRAPHS

It is ordered:

1. The Commission approves in part the Global Expedited Package Services 3 negotiated service agreement, as modified.
2. As discussed in the body of this Order, the Existing Agreement, as modified, shall be listed on the Mail Classification Schedule until the expiration date of the Existing Agreement, as modified, or until December 31, 2017, whichever occurs earlier.
3. The Postal Service shall notify the Commission of the termination date of the Existing Agreement, as modified.
4. The Postal Service's Motions for Temporary Relief are denied as moot.

By the Commission.

Ruth Ann Abrams
Acting Secretary